



## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CD23-9-000]

### Emrgy Inc.; Notice of Preliminary Determination of A Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions to Intervene

On June 7, 2023, Emrgy Inc., filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA). The proposed Rec 1004 Hydrokinetic 1 Project would have an installed capacity of 35 kilowatts (kW), and would be located within the Reclamation District 1004 Concrete Ditch near Princeton, Glenn County, California.

Applicant Contact: Eric Fleckten, Emrgy Inc., 75 5th Street NW, Suite 3160, Atlanta, GA, 30308, 855-459-1818, [eric@emrgy.com](mailto:eric@emrgy.com).

FERC Contact: Christopher Chaney, 202-502-6778, [christopher.chaney@ferc.gov](mailto:christopher.chaney@ferc.gov).

Qualifying Conduit Hydropower Facility Description: The project would consist of:  
(1) seven 5-kW hydrokinetic units spaced approximately 530 feet apart and  
(2) appurtenant facilities. The proposed project would have an estimated annual generation of approximately 30-62 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all the criteria shown in the table below.

**Table 1: Criteria for Qualifying Conduit Hydropower Facility**

| <i>Statutory Provision</i> | <i>Description</i>   | <i>Satisfies (Y/N)</i> |
|----------------------------|--|------------------------|
| FPA 30(a)(3)(A)            | The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity. | Y                      |
| FPA 30(a)(3)(C)(i)         | The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.  | Y                      |
| FPA 30(a)(3)(C)(ii)        | The facility has an installed capacity that does not exceed 40 megawatts.  | Y                      |
| FPA 30(a)(3)(C)(iii)       | On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.   | Y                      |

Preliminary Determination: The proposed Rec 1004 Hydrokinetic 1 Project will not alter the primary purpose of the conduit, which is for irrigation. Therefore, based upon the

above criteria, Commission staff preliminarily determines that the operation of the project described above satisfies the requirements for a qualifying conduit hydropower facility, which is not required to be licensed or exempted from licensing.

Comments and Motions to Intervene: Deadline for filing comments contesting whether the facility meets the qualifying criteria is **30 days** from the issuance date of this notice. Deadline for filing motions to intervene is **30 days** from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the “COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY” or “MOTION TO INTERVENE,” as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission’s regulations.<sup>1</sup> All comments contesting Commission staff’s preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission’s eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may send a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Locations of Notice of Intent: The Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's website at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (*i.e.*, CD23-9) in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. Copies of the notice of intent can be obtained directly from the applicant. For assistance, call toll-free

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<sup>1</sup> 18 CFR 385.2001–2005 (2022).

1-866-208-3676 or e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov). For TTY, call (202) 502-8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or [OPP@ferc.gov](mailto:OPP@ferc.gov).

Dated: June 9, 2023.

**Kimberly D. Bose,**  
*Secretary.*

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